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By ECF

September 7, 2022

Honorable Coleen McMahon
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *Sierra, et al. v. City of New York, et al.*, 20-cv-10291 (CM)(GWG)
Wood v. City of New York, et al., 20-cv-10541 (CM)(GWG)

Your Honor:

I am a Senior Counsel in the office of the Honorable Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and one of the attorneys assigned to represent Defendants in the above-referenced matter. Defendants respectfully submit this letter in response to plaintiffs' submission dated September 2, 2022 (Dkt. 738), in which plaintiffs incorrectly claimed:

Thus, we were vexed to see defendants' accusation that we had "declined to meet and confer" regarding our proposed amendments. ECF No. 737. That accusation is plainly false as demonstrated by the lengthy correspondence contained in Exhibit 16 to the July 22, 2022 Declaration of Rob Rickner (ECF No. 688-16).

It appears that plaintiffs' counsel may have read defendants' letter too hastily, and consequently levied an inaccurate claim against defendants. Indeed, plaintiffs' letter misquoted defendants' statement, as it omitted an operative portion of it, in which defendants stated, "It is rather unfortunate that plaintiffs declined to meet and confer *regarding their instant* Proposed Consolidated and Amended Class Action Complaint..." (emphasis added).

The *instant* Proposed Consolidated and Amended Class Action Complaint differs markedly from the Proposed Second Amended Class Action Complaint cited in the above-referenced Declaration of Rob Rickner. Unlike the former, the latter, which is *from last March*: (1) did not seek to consolidate the *Sierra* and *Wood* actions; (2) did not jettison plaintiffs' request for declaratory relief; and (3) sought to add defendants and maintain state law claims against them. By contrast, the *instant* Proposed Consolidated and Amended Complaint, about which plaintiffs declined to meet and confer, not only seeks to consolidate the *Sierra* and *Wood* actions and abandon any request for any non-monetary relief, but it also does not attempt to pursue state law claims against the proposed new defendants.

To be sure, plaintiffs' September 2, 2022 letter does not claim that they in fact met and conferred regarding their *instant* Proposed Consolidated and Amended Class Action Complaint. Instead, plaintiffs' letter incorrectly attempts to frame their invitation to meet and confer about an old version from last March, as a meet and confer regarding this instant and materially different iteration of proposed pleadings. Certainly, it is rather unfortunate that plaintiffs did not meet and confer about this new version because, as evidenced by defendants' current position, it may well have become clear that past impasses were surmountable.

In any event, defendants maintain their position from their September 2, 2022 letter (Dkt. 737). Defendants write to correct the record because plaintiffs' allegations of a false accusation are inaccurate.

Thank you for your consideration herein.

Respectfully submitted,

Daniel Braun /s/

Daniel Braun
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cc: ALL COUNSEL (via ECF only)